

Applicants: Livak [REDACTED]
Serial No.: 10/038,520
Filed: October 22, 2001
Amendment and Response to Non-Final Office Action
Page 6 of 7

REMARKS

In the Office Action dated February 5, 2003, the Examiner rejects: (i) claims 1 - 32 under 35 U.S.C. § 101 as claiming the same invention as U.S. Patent No. 6,301,829 (statutory double patenting); (ii) claims 1 - 32 under the judicially created doctrine of nonstatutory double patenting; and (iii) claims 1 - 28 under 35 U.S.C. § 112 as being indefinite.

Applicants have withdrawn claims 1 - 32, thereby rendering the previous rejections moot. Applicants note that the new claims are directed to methods in which neither the first nor second primer extension reagent by itself is capable of allowing extension of a full repeat unit. None of the methods claimed in the cited references contain this limitation. Further, the previous rejection under section 112 is not applicable because each new independent claim concludes with a step of determining the number of repeat units.

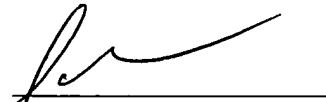
In view of the foregoing amendments, and the remarks set forth above, reconsideration and allowance are respectfully solicited.

Enclosed is a check in the amount of \$930.00, the requisite fee for the two-month extension of time. No additional fee is believed to be due with respect to the filing of this amendment. If any additional fee is due, or an overpayment has been made, please charge, or credit, Deposit Account No. 11-0171 for such sum.

Applicants: *Livak et al.*
Serial No.: 10/038,520
Filed: October 22, 2001
Amendment and Response to Non-Final Office Action
Page 7 of 7

If the Examiner has any questions regarding the present application, the Examiner is cordially invited to contact Applicants' attorney at the telephone number provided below.

Respectfully submitted,



Scott D. Locke, Esq.
Registration No.: 44,877
Attorney for Applicant

Kalow & Springut LLP
Telephone No.: (212) 813-1600